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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 09/057,556  | 04/09/1998  | SHUICHI OKAMURA      |                         | 6532             |
| 5514  | 7590        | 12/15/2003           |                         | EXAMINER         |
| FITZPATRICK CELLA HARPER & SCINTO<br>30 ROCKEFELLER PLAZA<br>NEW YORK, NY 10112 |             |                      | TSEGAYE, SABA           |                  |
|   |             |                      | ART UNIT                | PAPER NUMBER     |
|   |             |                      | 2662                    |                  |
|   |             |                      | DATE MAILED: 12/15/2003 |                  |

18

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                          |                  |
|------------------------------|--------------------------|------------------|
| <b>Office Action Summary</b> | Application No.          | Applicant(s)     |
|                              | 09/057,556               | OKAMURA          |
|                              | Examiner<br>Saba Tsegaye | Art Unit<br>2662 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 September 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. Claims 1-3, 8, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurobe et al. (US 6,233,251).

Regarding claims 1, 2, 13 and 14, Kurobe discloses a communication apparatus that performs data communication via a communication network, the apparatus comprising:

a packet transmitter for transmitting image data in packets and for selectively transmitting sound data in packets, wherein the sound data is divided into packets of invariable packet size (fixed-length data not employing retransmission; e.g. an audio frame) and the image data is divided into packets of variable packet size based on the size of each sound data packet (column 4, lines 20-33; column 21, lines 20-29; column 58, lines 40-59); wherein the image data is divided into packets dependent upon a ratio of an amount of image data to amount of sound data (see abstract).

Kurobe does not expressly disclose a detector for detecting an amount of sound data to be transmitted in packets; and a controller for controlling the variable packet size of the packets of image data to be transmitted by the packet transmitter, according to a detection result of the detector.

However, Kurobe discloses as stated above the function of the detector and controller that is the variable-length (image data) data has a frame length changed depending on the length of the fixed-length data (sound data).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to include a detector/controller within the realm of framing as

disclosed by Kurobe in order to provide devices on which other devices rely for access to communication apparatus subsystem.

Regarding claim 2, Kurobe discloses a communication apparatus, wherein the controller changes the packet size of the image data gradationally according to the amount of the sound data to be transmitted in packets (column 6, lines 30-44).

Regarding claim 3, Kurobe discloses a communication apparatus, wherein the controller changes the packet size of the image data according to whether the amount of the sound data to be transmitted in packets is zero or non-zero (column 4, line 66-column 5, line 4).

Regarding claim 8, Kurobe discloses a communication apparatus, further comprising a compression unit for compressing at least one of the image data and the sound data (column 1, lines 7-30).

2. Claims 4-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurobe in view of Palmer et al. (US 5,375,068).

Kurobe discloses all the claim limitations as stated above. Further, Kurobe shows, in fig. 10, a multiplex transmission device that discloses a transmitting side and a receiving side.

However, Kurobe does not expressly disclose an image input, a sound input, a display, and a sound output as in claims 4-7 and 9-12.

Regarding claims 4-7, 9, 11 and 12, Palmer discloses, in Fig 1, a video camera 38, headphones with microphone, and a display 30. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add devices for an image input, a sound input, a display, and a sound output to the apparatus of Kurobe, as taught by Palmer in order to allow multiple users to participate in a video teleconference.

Regarding claim 10, Kurobe discloses a method of multiplexing and transmitting compressed audio data and video data. Further, Kurobe shows, in Fig 10, a transmitting side and a receiving side.

However, Kurobe does not expressly disclose an expansion unit.

It would have been obvious to one ordinary skill in the art at the time of the invention was made to add an expansion unit in the receiving side of Kurobe in order to restore the contents of a compressed data to its original form.

#### ***Response to Arguments***

3. Applicant's arguments filed 9/16/03 have been fully considered but they are not persuasive. Applicant argues (Remark, page 8) that Kurobe et al. does not teach or suggest a communication apparatus that includes "a packet transmitter adapted to transmit image data in packets and to transmit sound data in packets, wherein the sound data is divided into packets of invariable packet size and the image data is divided into packets of variable packet size" and "a controller adapted to increase the variable packet size of the packets of image data to transmitted and to decrease the amount of sound data to be transmitted by the packet transmitter, according to a decrease in the amount of sound data to be transmitted in packets, as detected by the

detector," wherein " the image data is divided into packets dependent upon a ratio of an amount of image data to an amount of sound data." Examiner respectfully disagrees with Applicants' contention. Kurobe clearly teaches that the variable length data (video data) is changed depending on the length of the fixed-length data (audio data) (see abstract).

*Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saba Tsegaye whose telephone number is (703) 308-4754. The examiner can normally be reached on Monday-Friday (7:30-5:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (703) 305-4744. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

ST  
December 11, 2003



HASSAN KIZOU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600